

## **Part 5      OVERVIEW AND SCRUTINY**

### **Section**

- 1      Overview and Scrutiny Arrangements
- 2      Overview and Scrutiny Committee Procedure Rules

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## 1. OVERVIEW AND SCRUTINY ARRANGEMENTS

### Purpose

- 1.1 Every council operating an executive model has to have an overview and scrutiny function (Scrutiny) At the annual meeting of the full Council, the number of Committees, their Terms of Reference and the number of seats required to perform the scrutiny function for the forthcoming year will be approved.
- 1.2 The Council currently has appointed three Overview and Scrutiny Committees: People, Place, and Policy and Resources.
- 1.3 Developing a constructive relationship between the Cabinet and Scrutiny is fundamental to effective scrutiny and will occur by;
  - Facilitating the identification, prioritisation and delivery of key strategic issues Scrutiny Annual forward plans;
  - Promoting early involvement in the decision-making process and avoiding the need for “Call-in”;
  - Adopt a “cards on the table” approach with regular communication and sharing of information but balanced with a respect for confidentiality when required; and
  - Acceptance of the need for Scrutiny to have an independent mindset and responsibility for the role.
- 1.4 The success of this model lies in Scrutiny being “member led”. This means that the Scrutiny agenda will be set by Scrutiny members but also means that Councillors are accountable for its success. This will require the proactive engagement and commitment of both the Cabinet and Scrutiny as well as the Officers that support them.
- 1.5 This section gives more details about the Council’s Overview and Scrutiny Committees and the rules which govern how they work. These rules are at times written in formal language because of the statutory basis for the Overview and Scrutiny Committees. If you have specific questions our Democratic Services Team will be happy to help you.
- 1.6 The membership, chair and quorum requirements for the Overview and Scrutiny Committees are as set out in the below table.

### Membership, Chair and Quorum

<b>Number of Members</b>	17
<b>Substitute Members Permitted</b>	Yes
<b>Political Proportionality Rules Apply</b>	Yes
<b>Appointment / Removal of Members</b>	Group Leader or Independent councillor

<b>Restrictions on Membership</b>	The Mayor and Cabinet Members may not be members
<b>Restrictions on Chair and Vice Chair</b>	Deputy Cabinet Members cannot be appointed.
<b>Quorum for Meetings</b>	¼ of membership subject to a minimum of three members
<b>Number of Ordinary Meetings Per Council Year</b>	[       ]
<b>Sub committees and working groups</b>	permissible

### Scrutiny Principles

1.7 The Overview and Scrutiny Committees are committed to the developing of a respectful relationship between themselves, the Cabinet and external partners. The work of the Overview and Scrutiny Committees is underpinned by the following seven principles:

- (a) To contribute to sound decision making in a timely way by holding Councillors and key partners to account as a 'critical friend'.
- (b) Contribute to and reflect the vision and priorities of the Council.
- (c) Enable the voice and concerns of the public to be heard and reflected in the Council's decision making process.
- (d) Engage in policy development at an appropriate time to be able to influence the development of policy.
- (e) To be agile and able to respond to changing and emerging priorities at the right time with flexible working methods.
- (f) For Scrutiny to be a Councillor led and owned function which seeks to continuously improve through self-reflection and development.
- (g) Drive improvement in public services and strategic decision-making

1.8 In addition to the principles set out at paragraph 1.6 above, in conducting its proceedings a Scrutiny Committee will have regard to the following:

- (a) At all times, while conducting its business in a tenacious matter, to do so with respect, equity, fairness, dignity and with regard to the principles of natural justice.

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- (b) To ensure that all Scrutiny Committee members are given the opportunity to contribute to and speak at Scrutiny Committee meetings and to ask questions of those attending.
- (c) To conduct its business in a consensual, open, responsible and transparent manner across political divides and to avoid expressing views based purely on political considerations.
- (d) To conduct its business so as to maximise its efficiency.
- (e) Not to seek to hold Officers and non-Cabinet members to account for decisions taken by Cabinet members.
- (f) To recognise that any question of officer discipline which may arise is to be dealt with through the appropriate employment procedures.

## **Overview and Scrutiny Functions**

### Scrutiny

1.9 Within their agreed remit each Overview and Scrutiny Committee can:

- (a) Review or scrutinise decisions made or actions taken in connection with the discharge of any of the functions which are the responsibility of the Cabinet;
- (b) Make reports and/or recommendations to the Council or Cabinet with respect to the discharge of any functions which are the responsibility of the Cabinet;
- (c) Review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet;
- (d) Make reports and / or recommendations to the Council or Cabinet with respect to the discharge of any functions which are not the responsibility of the Cabinet;
- (e) Make reports or recommendations to the Council or the Cabinet on matters which affect the Council's area or the inhabitants of that area.
- (f) Exercise the right to call-in, for reconsideration of executive decisions made but not yet implemented by the Cabinet / Leader/ Cabinet member or relevant senior Officer;
- (g) Work to ensure that communities are engaged in the Scrutiny process; and consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
- (h) Promote equality and diversity across all of its work and the work of the Council.

1.10 The Overview and Scrutiny Committees will also each carry out these specific roles in relation to their work area:

- (a) Review and scrutinise the decisions made by and performance of the Leader / Cabinet / Cabinet member or Officers in relation to individual decisions;
- (b) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and / or particular service areas;
- (c) Question the Leader and all Cabinet members and senior Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (d) Scrutinise the work of partnerships and partnership bodies in the local area;
- (e) Make recommendations to the Cabinet / Leader / Cabinet member, Council or partners, arising out of the Scrutiny process;
- (f) Question and gather evidence from any person (with their consent where appropriate).

### **Overview - Policy Review and Development**

1.11 An important part of the Scrutiny function is also to;

- (a) Review current policies and strategies and make recommendations to the Leader / Cabinet and Council;
- (b) Undertake in depth analysis of policy issues and options to assist the Council and the Leader / Cabinet in the development of its budget and policy framework;
- (c) Consider matters referred to them by the Leader / Cabinet and report to the Leader / Cabinet with proposals and/or options;
- (d) Question members of the Cabinet and /or Committees and senior Officers from the Council about their views on issues and proposals affecting the area; and
- (e) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and
- (f) Consider the impact of policies to assess if they have made a difference
- (g) In performing the overview function above, a Scrutiny Committee will review Council and Cabinet policies and recommend to the Council and Cabinet:
  - (i) Whether new policies are required.
  - (ii) Whether existing policies are no longer required.

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- (iii) Whether existing policies require amending, updating or developing.
- (iv) Whether existing policies may be made more effective.

### **Review of External Organisation Performance**

1.12 A Overview and Scrutiny Committee will establish arrangements for its review of the performance of relevant external organisations, known as Partner Authorities, which affect the Council's functions and services. The Overview and Scrutiny Committees will consider providing the report to Council or Cabinet before notifying in writing to the relevant partner the report or recommendations.

### **Scrutiny of Education Matters**

1.13 The People Committee carries out the functions of the designated Education Scrutiny Committee. When sitting as an Education Scrutiny Committee it shall include in its membership the following representatives:-

- (a) 1 (one) representative from the Church of England Diocese;
- (b) 1 (one) representative from the Roman Catholic Diocese;
- (c) 3 (three) Parent Governor Representatives.

1.14 These co-optees will receive agendas and reports relating to all items being considered by the People Committee, but may vote only on matters pertaining to education matters and not on any other matters considered by the People Committee at the same meeting, though they may speak on these items.

### **Scrutiny of Health and / or Adult Social Care**

1.15 The People Committee with responsibility for health and / or adult social care will have the following additional functions:

- (a) To review and scrutinise any matter relating to the planning, provision and operation of health and / or adult social care services.
- (b) To review and scrutinise the impact of the Council's service and key partnerships on the health and / or adult social care of residents.
- (c) To respond to consultations on any proposal for a substantial development or variation of health and / or adult social care services.
- (d) To positively and proactively scrutinises NHS functions in the Council area.

1.16 The People Committee includes in its membership a representative from Healthwatch and any other co-opted members required by law

### **Scrutiny of Crime and Disorder**

1.17 In accordance with s19 of the Police and Justice Act 2006 the Place Committee will carry out the statutory responsibilities to scrutinise crime and disorder issues by:

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- (a) Reviewing or scrutinising decisions made, or other action taken in connection with the discharge by the responsible authorities of their crime and disorder functions;
- (b) Making reports or recommendations to the local authority with respect to the discharge of those functions.

1.18 Crime and Disorder functions are (i) the strategy for the reduction of crime and disorder in the area (including anti-social and other behaviour adversely affecting the local environment); (ii) the strategy for combatting the misuse of drugs, alcohol and other substances in the area; (iii) the strategy for the reduction of re-offending in the area and; the strategy for preventing people from becoming involved in serious violence in the area, and reducing instances of serious violence in the area.

### **[Scrutiny of Flood Risk Management**

1.19 The Place Committee shall review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area. ] Move to description of committee

### **Cabinet Functions**

1.20 The Overview and Scrutiny Committees may review the Cabinet's performance of its executive functions and where necessary recommend to the Cabinet or the Council:

- (a) Whether any action should be taken to improve the economy, efficiency and effectiveness of these functions;
- (b) Whether any action should be taken to improve the co-ordination of the functions within the Council or the functions of other persons or bodies;
- (c) Whether any functions should be performed in another way or by another person or body;
- (d) Whether the performance of the function should cease.

### **Budget Framework**

1.21 The Leader / Cabinet and Overview and Scrutiny Committees will agree a process for the scrutiny of the annual budget and Council Tax setting.

### **Referrals from the Council or the Cabinet**

1.22 The Overview and Scrutiny Committees will consider where possible any matter referred to them by the Council or the Cabinet and recommend any appropriate action. The Cabinet may request a Scrutiny Committee to look at topics to assist and inform Cabinet decision-making.

1.23 The following matters will automatically be referred for inclusion in the workplan if agreed by the Scrutiny Committee of:

- (a) Draft policies, plans and strategies which are to be recommended to the Council or the Cabinet for approval;

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(b) The draft budget which is recommended to the Council by the Cabinet.

1.24 In reviewing draft policies, plans strategies and the draft budget, a Scrutiny Committee will in particular consider:

- (a) Whether any appropriate criteria has been used;
- (b) Whether consultation (if any) responses and engagement conclusions have been taken into account;
- (c) Whether the decision is in accordance with the Council's policy framework;
- (d) Whether the decision is within the powers of the Council;
- (e) Whether the decision is lawful;
- (f) Whether the decision contributes to the efficient, effective and economic performance of the function in question.

### **Members Right of Reference to a Scrutiny Committee**

1.25 A member of a Overview and Scrutiny Committee, or a Sub-committee of that Committee or another Councillor may refer a matter to the Overview and Scrutiny Committee that is relevant to its functions and not an excluded matter.

1.26 The member must give notice in writing of the referral to the Scrutiny Officer stating the reasons for the request and proposed outcome.

1.27 The Scrutiny Officer will consider if the referral is relevant to the functions of the Overview and Scrutiny Committee and if so, decide which Overview and Scrutiny Committee should receive the referral and will include the referral on the agenda for the next scheduled meeting of the relevant Overview and Scrutiny Committee for debate. If the Overview and Scrutiny Committee decides not to take any action the Overview and Scrutiny Committee must notify the Councillor of its decision, and the reasons for it. If however, the Overview and Scrutiny Committee include the matter in their work programme and makes a report or recommendation to the Council or the Cabinet then a copy of that must be provided to the Councillor who originally referred the matter.

### **Scrutiny Ways of Working**

#### Scrutiny Committee Business

1.28 An Overview and Scrutiny Committee will consider any business in accordance with its Terms of Reference and included in an agenda for its meeting.

1.29 In conducting its business, an Overview and Scrutiny Committee may:

- (a) Undertake in depth analysis of a policy issue;
- (b) Receive briefings and presentations on issues under consideration;
- (c) Undertake research, community and other public engagement, particularly in the analysis of policy issues and possible options;



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- (d) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (e) Hold inquiries, workshops, public meetings and conduct public surveys;
- (f) Invite advisors and assessors to assist them;
- (g) Question Cabinet members, Deputy Cabinet members and seek their views on issues and proposals affecting the Council's area;
- (h) Question senior Officers, and where appropriate suppliers and seek their professional views on issues, and / or their decisions and performance either in relation to service plans or in relation to particular decisions, initiatives or project;
- (i) Liaise with national, regional or local external organisations operating in the Council's area so as to ensure that the interests of local people are enhanced by collaborative working;
- (j) As part of any investigation, review and scrutinise the decisions made by, and performance of, the Cabinet, Cabinet members and senior Officers as regards both individual decisions and over time;
- (k) Question and collect evidence from any other person (with their consent) and invite witnesses to attend Scrutiny Committee meetings, proceedings or events.

1.30 The People Committee with responsibility for health and / or adult social care may call for information and explanations, questions and proposed plans from health and / or adult social care providers, and invite the senior managers of such service providers to attend meetings and give evidence.

#### Annual Scrutiny Work Plan

1.31 Each Overview and Scrutiny Committee must agree at its first meeting of a municipal year an annual work plan that takes into account:

- (a) The Council's corporate plans and priorities for the year;
- (b) Consultation with the relevant Cabinet member or members;
- (c) Consultation with the Chief Executive and relevant Executive Directors;
- (d) The desirability of making provision for the consideration of items of business within the remit of the Scrutiny Committee but not in the work plan arising during the year (an "unplanned scrutiny item"); and
- (e) Advice from the Scrutiny Officer on any matter.

1.32 Each scrutiny work plan will include a delivery plan and timetable. The plan must have regard to the Council's resources to deliver the plan and have flexibility to account for unforeseen events.

### Agenda Setting Meetings

- 1.33 Agenda setting meetings will be held 6 (six) weeks in advance of each Overview and Scrutiny Committee meeting. These meetings will be attended by the relevant Overview and Scrutiny Committee Chair and Deputy Chair, relevant Executive Directors, Democratic Services support officer and Scrutiny Officer. Invitation may be extended to relevant Cabinet members as required.
- 1.34 The agenda for meetings will be agreed in accordance with the order set out in the Overview and Scrutiny Procedure Rules set out below.

### Overview and Scrutiny Committee Pre-meetings

- 1.35 Pre-meetings of all Overview and Scrutiny Committee members may be held to ensure formal meetings are an effective use of available time by ensuring there is a shared understanding of the business of the meeting, including time allocations for items. The Chair may be able to give an indication of how they may be minded to address any procedural issues.
- 1.36 It is essential that pre-meetings do not involve any debate of the scrutiny topics at the meeting to ensure compliance with the Access to Information Rules set out under Part 1 of this Constitution. .

### Sub-committees and Working Groups

- 1.37 The appointing Overview and Scrutiny Committee (“Parent Committee”) will agree the terms of reference for any sub-committee or working group including but not limited to:
- (a) The terms of reference and intended outcome;
  - (b) Its membership and support arrangements;
  - (c) Arrangements for its meetings; and
  - (d) A time limit for its recommendations to be submitted to the Parent Committee.

### Monitoring and Tracking

- 1.38 Findings and recommendations of Overview and Scrutiny Committees, panels or similar will be circulated to all Scrutiny Committee members and the Leader and Cabinet.

### The Scrutiny Officer

- 1.39 The Scrutiny Officer supports members and has the following statutory duties:
- (a) To promote the role of the Council’s Overview and Scrutiny Committees;
  - (b) To provide support to the Council’s Overview and Scrutiny Committees and their members; and
  - (c) To provide support and guidance in relation to overview and scrutiny functions to Councillors, the Cabinet and Officers.

### Annual Report

- 1.40 Each scrutiny work plan must be submitted to the next available full Council meeting for endorsement.
- 1.41 Each Overview and Scrutiny Committee Chair will report on progress of the scrutiny work plan of their Overview and Scrutiny Committee to full Council every six months and will submit an Annual Report on progress and outcomes to the Annual General Meeting.

### Reports from Overview and Scrutiny Committees to Cabinet

- 1.42 All Overview and Scrutiny Committee reports will be notified to the Cabinet for consideration. This affords the Cabinet an opportunity to discuss the report and its recommendations with the Overview and Scrutiny Committee (if necessary) before the report and the Cabinet's views are submitted to the Council as necessary for its consideration. Every effort will be made to avoid undue delay. As the reports / recommendation must be responded to within two months.
- 1.43 Where a Overview and Scrutiny Committee cannot agree on a single, final report to the Cabinet then one minority report may be submitted to the Cabinet with one majority report.
- 1.44 All representations from an Overview and Scrutiny Committee to a Cabinet member regarding their responsibility, whether made verbally or in the form of a report, letter, email or other written format, must be formally reported to the Cabinet by the Cabinet member concerned, either verbally or in writing, when the relevant item is being considered. Overview and Scrutiny Committees must clearly identify that such a representation is a formal representation.

### Ensuring Cabinet Considers Scrutiny Committee Reports

- 1.45 Where appropriate, before submitting a report to the Cabinet, an Overview and Scrutiny Committee may prepare a draft report to allow the relevant Cabinet member and the Chief Executive to comment on emerging themes and recommendations. The relevant Cabinet member and relevant Officers are able to attend the meeting of the Overview and Scrutiny Committee where the draft report is considered.
- 1.46 Once an Overview and Scrutiny Committee report on a matter which is a responsibility of the Cabinet has been finalised it will be included on the agenda of the next available Cabinet meeting unless the subject of the report is due to be considered by the Cabinet within two weeks of the report being finalised. In such a case the report will be considered when the Cabinet considers the subject of the report.
- 1.47 Where for any reason the Cabinet does not consider an Overview and Scrutiny Committee report at its next scheduled meeting or within four weeks of the report being submitted for the Cabinet's consideration, the Monitoring Officer may call a meeting of the Council to review the matter and make a recommendation to the Cabinet.
- 1.48 The Cabinet will respond to the report and recommendations within four weeks and then provide updates to the relevant Overview and Scrutiny Committee on the implementation of the recommendations if required. Upon receipt of the Cabinet updates

the relevant Overview and Scrutiny Committee will review the progress towards the implementations of the recommendations.

#### Reference to full Council

- 1.49 Each Overview and Scrutiny Committee should decide when it would be appropriate to submit reports for wider debate, taking into account the relevance of reports to full Council business, as well as full Council's capacity to consider and respond in a timely manner. Such reports would supplement the annual report to full Council on the Overview and Scrutiny Committee's activities and raise awareness of ongoing work
- 1.50 An Overview and Scrutiny Committee may refer a matter to Council if, in their opinion:
- (a) It is contrary to the Policy Framework; or
  - (b) It is contrary / not wholly consistent with the Budget Framework; or
  - (c) The Overview and Scrutiny Committee disagrees with the Monitoring Officer / Chief Finance Officer's view that the decision is legally and / or financially compliant.

#### Power to Require Attendance of Councillors and Officers to Answer Questions

- 1.51 An Overview and Scrutiny Committee or a sub-committee may require the Leader and Cabinet and Officers to attend before it to answer questions. It is the duty of the Leader and Cabinet or Officer to comply with a request to attend the meeting.
- 1.52 All Councillors and Officers will comply with the Council's Scrutiny Protocol in the discharge of and response to this power and will comply with the following principles:
- (a) The relevant Cabinet member and Executive Director will attend all Overview and Scrutiny Committee meetings relevant to their responsibilities and answer all questions where possible;
  - (b) All requests will be made through the Scrutiny Officer or their nominee and will provide the reasons for the request and the matters on which the Cabinet member or Officer will be questioned;
  - (c) The Chief Executive will seek to ensure the most appropriate Officers attend meetings to answer questions but may propose alternative attendees to ensure compliance with the order in paragraph (d) below;
  - (d) Requests will be made in the following order:
    - The relevant Cabinet member or members;
    - The Chief Executive or relevant Chief Officer or Officers;
    - To relevant professional specialist or Head of Service; and
  - (e) Requests will be proportionate and respect Officers' and members' other work commitments and right to a private life.

- 1.53 A Councillor or Officer may not be asked or obliged to answer any question which

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- (a) Falls outside the Overview and Scrutiny Committee's remit or falls within the remit of another Committee or body;
- (b) May be relevant to any disciplinary or other action that may be taken against them by the Council; or
- (c) They would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.

#### Attendance by Others

1.54 An Overview and Scrutiny Committee or sub-committee may invite people other than the Councillors and Officers referred to above to address them, to discuss issues of local concern and / or answer questions including members of the public and expert witnesses.

#### Matters within the Remit of More than One Overview and Scrutiny Committee

1.55 Where a matter for consideration by an Overview and Scrutiny Committee also falls within the remit of one or more other Overview and Scrutiny Committees, the decision as to which Overview and Scrutiny Committee(s) will consider it will be determined by the Monitoring Officer in consultation with the Chairs of the relevant Overview and Scrutiny Committees.

#### Scrutiny Co-ordinating Group

1.56 The Chairs and Deputy Chairs of the Overview and Scrutiny Committees may meet with the Scrutiny Officer (and other Officers as they see fit) to ensure the effective administration of overview and scrutiny and its work programme. The meetings are not formal and have no decision making powers.

## **2. OVERVIEW AND SCRUTINY COMMITTEE PROCEDURE RULES**

### **Overview and Scrutiny Committee Proceedings**

#### **Who may sit on an Overview Scrutiny Committee?**

2.1 An Overview and Scrutiny Committee will comprise no more than seventeen members, but the number of seats on a given Overview and Scrutiny Committee may vary depending on its remit and workload. The composition of the Overview and Scrutiny Committees will be politically proportionate.

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- 2.2 All Councillors except Cabinet members and Deputy Cabinet members may be members of an Overview and Scrutiny Committee. Substitutes on Overview and Scrutiny Committees are permitted. However, no Councillor may be involved in scrutinising a decision in which they have been personally involved or made by close friends or relatives.
- 2.3 All Overview and Scrutiny Committee members must maintain an awareness of potential conflicts of interest to ensure such conflicts are managed and familial links between Cabinet and Scrutiny responsibilities including where members stand down from the Cabinet and move to a Scrutiny role, and vice-versa are considered. No Scrutiny Overview and Scrutiny Committee member may be a member of or appointed to a Cabinet working group falling within the scope of the Overview and Scrutiny Committee to which they have been appointed.

### **Co-optees**

- 2.4 Any Overview and Scrutiny Committee may co-opt any person who is not a Councillor to be a member of the Overview and Scrutiny Committee either as standing member of the Overview and Scrutiny Committee or on a time limited basis. A co-opted member cannot vote but is able to contribute to the debate and provide their insights. The Committee should seek advice from the Scrutiny Officer before appointing any co-opted members.

### **Who Chairs the Scrutiny Committee Meetings?**

- 2.5 At each Annual General meeting of Full Council the Overview and Scrutiny Committee Chairs and Vice Chairs shall be appointed, both of whom shall hold office for a year or until their successors are elected or appointed.
- 2.6 If both Chair and Vice-Chair are absent from a meeting, a Chair for the meeting will need to be sought. The person presiding at the meeting may exercise any power or duty of the Chair.
- 2.7 No person shall hold the office of Chairman or Vice-Chair unless they are a member of the Overview and Scrutiny Committee in question and are also a Councillor of the Council.

### **Scrutiny Committee Meetings**

- 2.8 An Overview and Scrutiny Committee should normally meet at least four) times each year although additional meetings may be called as and when required.
- 2.9 A meeting may be called by the Chair of the relevant Overview and Scrutiny Committee or by any three members of the Overview and Scrutiny Committee or by the Scrutiny Officer if they consider it necessary.
- 2.10 Wherever possible an Overview and Scrutiny Committee meeting will be webcast.
- 2.11 The Overview and Scrutiny Committee will consider the following business:

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- (a) Minutes of the last meeting;
- (b) Declarations of interest;
- (c) The consideration of any matter referred to the Committee for a decision relating to the Call-in of a decision;
- (d) Responses of the Cabinet to any reports of the Committee;
- (e) Any item proposed under paragraphs 1.24 to 1.27 of the Scrutiny Committee Arrangements above as a 'Councillor Call for Action';
- (f) The business otherwise set out in the agenda for the meeting.

2.12 In the event of disagreement as to the inclusion of the agenda item, the Committee shall decide on the inclusion at its next available meeting.

### **Scrutiny Committee Meeting Procedure**

2.13 Where the Overview and Scrutiny Committee is considering the review or development of a policy in accordance with paragraph 1.11 of the Overview and Scrutiny Committee Arrangements above it may request the attendance at the meeting of;

- (a) Any Councillor;
- (b) Any other elected or co-opted member;
- (c) The Head of Paid Service (Chief Executive), any Chief Officer and / Executive Director to explain any matters within their remit;
- (d) With their consent, those others it considers appropriate including but not limited to residents, relevant stakeholders and the members or officers of other public bodies.

2.14 In such a case the meeting will be conducted in accordance with the following principles:

- (a) That the matter is conducted fairly with all Overview and Scrutiny Committee members afforded the opportunity to ask questions and all attendees afforded the opportunity to speak and contribute.
- (b) That those assisting the Overview and Scrutiny Committee by giving evidence be treated with respect and courtesy.
- (c) That the matter be conducted in such a manner as to maximise the efficiency of the investigation or review.

2.15 Where a Councillor or Officer is required to attend a meeting of an Overview and Scrutiny Committee under this provision, the Chair of that Overview and Scrutiny Committee will inform the Scrutiny Officer.

2.16 The Scrutiny Officer will notify the person whose attendance is sought in writing giving not less than ten working days' notice of the meeting in question.

2.17 The Scrutiny Officer's notice will inform the Councillor or Officer of the nature of the agenda item on which they are required to attend and give an account and whether any papers are required to be produced for the Overview and Scrutiny Committee. Where

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the Overview and Scrutiny Committee will require a report, sufficient notice will be given for the preparation of the report.

2.18 Where, in exceptional circumstances, the Councillor or Officer is unable to attend the meeting on the required date, then in consultation with the Councillor or Officer the Overview and Scrutiny Committee will arrange an alternative date for their attendance, or where the Councillor or Officer is unable to attend, they may nominate another person who is able to speak on the topic in question.

### **Rights of Overview and Scrutiny Committee Members to Documents**

2.19 In general, a member of an Overview and Scrutiny Committee will have access to information in accordance with the [Access to Information Procedure Rules](#) set out under Part 1 of this Constitution.

2.20 Additionally, for the purpose of fulfilling the scrutiny function, a member of an Overview and Scrutiny Committee is entitled to a copy of any document which:

- (a) Is in the possession or under the control of the Cabinet; and;
- (b) Contains material relating to:
  - (i) Any business that has been transacted at a meeting of a decision making body of the Council;
  - (ii) Any decision that has been made by an individual member of Cabinet in accordance with the Executive Arrangements set out under Part 4 of this Constitution; or
  - (iii) Any decision that has been made by an Officer in accordance with the Executive Arrangements.

2.21 Where a member of an Overview and Scrutiny Committee requests a document which falls within paragraph 2.20 the Cabinet must provide that document as soon as reasonably practicable and in any case no later than ten clear days after the Cabinet receives the request.

2.22 No member of an Overview and Scrutiny Committee is entitled to a copy:

- (a) Of any such document or part of a document detailed under paragraph 2.20 which contains exempt or confidential information unless that information is relevant to:
  - (i) An action or decision that that member is reviewing or scrutinising; or
  - (ii) Any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (b) Of a document or part of a document detailed under paragraph 2.20 containing advice provided by a political adviser or assistant.

2.23 Where the Leader determines that a member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document detailed under



paragraph 2.20, for a reason set out in paragraph 2.22, the Leader must provide the Overview and Scrutiny Committee with a written statement setting out their reasons for that decision as required in Regulation 17 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. For the avoidance of doubt “*document*” means any report or background papers, other than that only in a draft form, taken into consideration in relation to an executive decision.

2.24 Members of an Overview and Scrutiny Committee may within the limits of its budget (if any), commission research or advice (including from external organisations) to assist in any deliberations and may request that a budget for such work is provided.

2.25 Overview and Scrutiny Committees will also have access to background information from a range of sources including but not limited to:

- (a) Council plans, strategies and policies;
- (b) The four month Forward Plan of work for the Cabinet;
- (c) All documents listed on the Council’s Policy Register;
- (d) Business Unit plans;
- (e) External Audit Management Letters;
- (f) Internal and External Audit Plans and Reports;
- (g) Legislation and Government guidance;
- (h) Government Reports and National Studies;
- (i) National performance and comparative information e.g. CIPFA statistics;
- (j) Complaints;
- (k) Community plans and processes;
- (l) Cabinet or Cabinet Member papers;
- (m) Representations from the Community (Individuals, Community Groups, Councillors, Community Boards, Residents, Surveys, etc.);
- (n) Research published by other organisations or commissioned by any of the Overview and Scrutiny Committees;
- (o) Evidence from expert witnesses at the Overview and Scrutiny Committees’ request;
- (p) Copies of minutes and papers received by any internal Council advisory board or group.

### **Right of Speakers**

2.26 Any person required to attend and give evidence at an Overview and Scrutiny Committee meeting is entitled to see the public and background papers made available to the Overview and Scrutiny Committee and any other relevant papers or information

which are not public at the same time if the Monitoring Officer decides it is appropriate. Such papers or information may include but are not limited to:

- (a) External Audit Management Letters;
- (b) Internal and External Audit Plans and Reports;
- (c) National performance and comparative information (i.e. CIPFA statistics);
- (d) Research published by other organisations or commissioned by other Committees of the Council.

2.27 Wherever possible anyone asked to speak at the meeting will be given access to the statements of those who have already spoken to the Overview and Scrutiny Committee, but not those who have yet to do so.

2.28 Those in receipt of the papers will respect confidentiality of all confidential and / or exempt information included in them.

2.29 Except insofar as the papers include confidential and / or exempt information and as considered appropriate where the public and press have been excluded, those papers submitted to the Overview and Scrutiny Committee by anyone speaking at a meeting of the Overview and Scrutiny Committee will become public documents once the speaker has concluded their evidence.

2.30 Those speaking at a meeting are entitled to request for their comment a copy of any draft minutes or other record taken of their contribution to the meeting. If the speaker considers that the draft minutes or record of their contribution is not accurate, they are able to make a written request asking that a correction be submitted at the next meeting of the Overview and Scrutiny Committee.

### **Rights of Councillors to Attend an Overview and Scrutiny Committee Meeting and Speak**

2.31 Any Councillor who is not a member of an Overview and Scrutiny Committee may attend a meeting of that Committee and speak if permitted to do so by the Chair.

### **Questions**

#### Questions on Notice

2.32 Subject to Rules 2.33 and 2.34, a Councillor may ask the Chair of an Overview and Scrutiny Committee a question on any matter relevant to their terms of reference and responsibilities.

#### Notice of Questions

2.33 A Councillor may ask a question under Rule 2.32 if either:

- (a) They have given notice of the question in writing or by electronic mail no later than midday five working days before the day of the meeting to the Monitoring Officer; or

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- (b) The question relates to urgent matters, they have the consent of the Chair or councillor to whom the question is to be put and the content of the question is received by the Monitoring Officer in writing or by electronic mail by **9.00 a.m. on the day of the meeting.**

#### Content of Questions

2.34 Questions under Rules 2.32 (insofar as is relevant) must be no longer than 150 words and, in the opinion of the Chair:

- (a) Not be unreasonable;
- (b) Contain no expressions of opinion;
- (c) Relate to matters on which the Council has or may determine a policy;
- (d) Not relate to questions of fact;
- (e) Not require the disclosure of confidential or exempt information;
- (f) Not relate to a matter which is purely of personal concern to an individual or family members.

2.35 Rejected questions will be returned to the questioner with the reasons for rejection.

#### Time Allowed for Councillor Questions at Overview and Scrutiny Committees

2.36 The total time allowed for consideration of such questions submitted under Rule 2.32 shall be fifteen minutes.

#### Record of Questions

2.37 The Monitoring Officer will send a copy of any question received to the Chair of the Overview and Scrutiny Committee to whom it is to be put. Copies of all questions will be available to all Councillors and the public attending the meeting. After the meeting, copies of the questions asked at the meeting and the responses will also be available on the Council's website with the minutes for the relevant meeting.

#### Number of Questions

2.38 At any one meeting no Councillor may submit more than one question and no more than one question may be asked on behalf of one organisation.

#### Order of questions

2.39 Questions from Councillors received in accordance with Rule 2.32 will be asked in the order determined by the Chair.

#### Response

2.40 An answer to a question submitted under Rule 2.32 shall be no more than 250 words and may take the form of:

- (a) A direct verbal answer;
- (b) Where the desired information is in a publication of the Council or other published work, a reference to that publication; or

- (c) Where the reply cannot conveniently be given verbally, a written response will be provided no later than five working days after the meeting.

#### Referral of Question

2.41 Unless the Chair decides otherwise, no discussion will take place on any question, but any member of the Overview and Scrutiny Committee may move that a matter raised by a question be referred to Council, Cabinet or the appropriate Committee or sub-Committee as necessary. Once seconded, such a motion will be voted on without discussion.

#### Rights of the Public to Attend a Overview and Scrutiny Committee Meeting and ask Questions

2.42 The public may ask questions at Overview and Scrutiny Committee meetings on items set out in the agenda for that meeting.

#### Time Allowed for questions

2.43 The total time allowed for asking questions under Rule 2.42 shall not, without the consent of the Chair , exceed ten minutes with each question limited to three minutes per question.

#### Notice of Public Questions

2.44 A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Monitoring Officer no later than midday five working days before the day of the meeting. Each question must give the name and address of the questioner.

#### Number of Public Questions

2.45 At any one meeting no member of the public may submit more than one question and no more than one question may be asked on behalf of one organisation.

#### Scope of Public Questions

2.46 The Monitoring Officer may reject a public question if in their view it:

- (a) Is not about a matter for which the Council has a direct responsibility or which affects the Council's area;
- (b) Is defamatory, frivolous or offensive;
- (c) Is vexatious or abusive;
- (d) Is substantially the same or similar to a question which has been put at a meeting of the Council or Committee in the past six months;
- (e) Requires the disclosure of confidential or exempt information;
- (f) Is lengthy, or is not a question;
- (g) Relates to a matter which is of purely personal concern to an individual or family members;

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- (h) Relates to court action or threatened court action between the Council and the questioner or group with which they are connected;
- (i) Is a request for compensation;
- (j) Contains a statement which is untrue;
- (k) Is an unintelligible question;
- (l) Relates to a matter on which the Council has, or may, determine a policy.

2.47 If not rejected by the Monitoring Officer the Overview and Scrutiny Committee Chair will decide how a public question will be dealt with.

### **Duration of Meeting (Overview and Scrutiny Committees Only)**

2.48 After three hours from the commencement of the meeting, including any period that the meeting may have been adjourned, an Overview and Scrutiny Committee may pass a resolution to continue the meeting for up to thirty minutes.

2.49 At the end of this thirty minute period, or if such a resolution is not passed, the Chair of an Overview and Scrutiny Committee shall dispose of the remaining business by conducting a vote on any item(s) immediately without further debate or by deferring consideration to a future meeting.

## **3. THE CALL-IN PROCEDURE**

- 3.1 Only key decisions can be called-in, urgent key decisions cannot be called in.
- 3.2 Call-in should only be used in exceptional circumstances. Exceptional circumstances are where a decision has been made which is either outside the policy framework or contrary to, or not wholly consistent with the budget, or the decision was not taken in accordance with the principles set out in Article 13.02. The right to call-in should not be abused.
- 3.3 Where a decision is made by the Cabinet, the decision shall be published in a Digest, including where possible by electronic means, and shall be available at the main offices of the Council as soon as possible after the Cabinet meeting. The Digest will be sent to all Councillors.
- 3.4 The published decision will bear the date on which it is published and will specify that the decision will come into force and may be implemented at 4.00pm on the fifth working day after the publication of the decision (not including the date of publication), unless called-in under these provisions.
- 3.5 During this period, the Chief Executive shall call-in a decision for scrutiny by the relevant scrutiny committee if so requested by at least 3 members of the Council (not including Cabinet Members) or voting co-opted members and providing the request complies with the requirements set out in the reasons for call-in below. For the purposes of this provision the education co-opted members referred to in paragraph 3 of these Rules shall only be entitled to request the call-in of a decision relating to education matters.

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- 3.6 Councillors requesting that a decision be called-in for scrutiny shall complete a call-in form (attached at Appendix 1) either electronically or on paper and indicate one councillor as the lead councillor for the call-in and send it to the Chief Executive.
- 3.7 The councillors requesting the call-in must include reason(s) why the decision should be scrutinised.
- 3.8 A reason for call-in shall not be valid if:-
- (i) the reason for call-in does not relate directly to the decision;
  - (ii) the reason for call-in is answered by information already to be found in the report relating to the decision;
  - (iii) the reason for call-in is to obtain information which does not directly relate to the reasons for taking the decision which is being called in;
  - (iv) the reason for call-in relates to a decision which is yet to go to statutory consultation. However, the reason for call-in may be valid if it relates to the basis of or criteria for the consultation;
  - (v) the reason for call-in relates to a previous policy or strategy decision which has been subject to the call-in process within the previous six months;
  - (vi) there was sufficient time for pre-decision scrutiny.
- 3.9 On receipt of a call-in form the Chief Executive will arrange for:
- (a) the call-in form to be acknowledged in writing;
  - (b) consideration that the call-in is valid within these Rules;
- 3.10 If the call-in is valid:
- (c) Cabinet to be formally notified in writing of the receipt of a call-in; and
  - (d) the Chair of the scrutiny committee to be informed (if the Chair is not a party to the call-in).
- 3.11 If the call-in form states that the decision is outside of the budget and policy framework of the Council, the Chief Financial Officer or Monitoring Officer (as appropriate) will prepare a report for the scrutiny committee upon the matter.
- 3.12 Prior to the meeting of the scrutiny committee arranged to consider the call-in item, the Chair shall arrange an informal meeting with the lead councillor calling in the decision and the lead Cabinet Member to discuss the issue. All members who have signed the call-in request will be invited to the informal meeting, providing the number of signatories does not exceed three.
- 3.13 Where at the informal meeting stage assurances are given by, or agreements reached with the lead Cabinet Member, then those assurances or agreements must subsequently be confirmed in writing.
- 3.14 A report of any call-ins that are withdrawn as a result of an informal meeting will be included on the Agenda for the next meeting of the scrutiny committee.

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- 3.15 If the call-in is not withdrawn as a result of the informal meeting or an informal meeting is not held it will go to the scrutiny committee.
- 3.16 The committee should normally meet within 10 clear working days of the notice of call-in. Wherever possible scheduled meetings of the committee will be used. Where this is not possible the Chief Executive will liaise with the parties concerned to arrange a special meeting.
- 3.17 A decision may not be called-in where the scrutiny committee scrutinised the decision before it was taken and made recommendations to Cabinet and those recommendations have been accepted by Cabinet either in whole or without significant addition or modification.
- 3.18 To facilitate the proper scrutiny of the decision being called-in, the lead councillor shall provide the scrutiny committee members with an outline of the case to be presented and any supporting evidence not less than three working days prior to the date of the scrutiny committee meeting.
- 3.19 Where a decision has been called-in and none of the councillors who have called-in the decision attends, the scrutiny committee will have the option of confirming the decision without any further discussion.
- 3.20 The Chair of the scrutiny committee shall primarily confine the debate at the meeting to the reasons stated on the call-in form.
- 3.21 The options available to the scrutiny committee in respect of a called in matter are as follows:
  - (a) To note the Cabinet's decision – in which case the decision takes effect immediately
  - (b) To refer the matter back to the Cabinet for reconsideration – in which case the Cabinet shall reconsider the matter within 28 days, normally at its next planned meeting. The Cabinet may then determine the matter as it thinks fit and the decision takes effect on publication of the fresh decision, there being no further call-in.
  - (c) Refer Cabinet's decision to the Council where the Chief Financial Officer/ Monitoring Officer's report confirms that the decision is outside of the budgetary and policy framework.
- 3.22 If a matter is referred to the full council in accordance with paragraph (c) above, the Chief Executive, in consultation with the Mayor, shall call an extraordinary meeting of the council within seven working days.
- 3.23 Essentially the same procedures also apply to the call-in of key decisions by the Cabinet Committee and officers. However, in the latter case if the scrutiny committee refers the matter back, it will be considered again by the officer who will refer the matter to Cabinet.

#### **4. CALL-IN AND URGENCY**

- 4.1 The call-in procedure set out above shall not apply or shall cease to apply where the decision being taken by the Cabinet is urgent or becomes urgent during the call-in process. A decision is urgent if any delay likely to be caused by the call-in process is likely to seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the Cabinet, the decision is or has become an urgent one, and therefore not, or no longer subject to call-in.
- 4.2 The operation of the provisions relating to call-in and urgency shall be
- 4.3 monitored annually, and a report submitted to Council with proposals for review if necessary.

#### **5. PRE-DECISION SCRUTINY**

##### **What is pre-decision scrutiny?**

- 5.1 Pre-decision scrutiny applies to scheduled Cabinet business and provides the opportunity for consultation with non-Executive Members on fully developed proposals, where a clear recommendation exists, before decisions are taken by the Cabinet. This provides scrutiny Councillors with the ability to make comments on a proposed decision before it is made, thereby giving scrutiny a valuable opportunity to influence decision-making through debate and challenge.
- 5.2 Pre-decision scrutiny is usually undertaken two or three weeks before a key decision is made at Cabinet. This provides councillors on scrutiny committee to consider and make recommendations on decisions in their final form.
- 5.3 The range of possible outcomes may include support for a decision, a different view on the way forward, the flagging up of concerns, or a view that the decision should be deferred pending further work, etc.
- 5.4 It does not mean that decisions will necessarily be changed or withdrawn, however it gives an opportunity for those decisions to be more informed. Pre-decision scrutiny can be viewed as non-Executive Members performing a 'critical friend' role in relation to the Executive.

##### **What pre-decision scrutiny is not**

- 5.5 Pre-decision scrutiny does not replace decision-making. It is not intended to blur the lines of accountability, which will always rest with the Executive.
- 5.6 Pre-decision scrutiny is not the same as general service or policy development / formulation. Separate to pre-decision scrutiny there will be occasions where scrutiny is already involved at an earlier point in the development of policy or service proposals.
- 5.7 Pre-decision scrutiny is not a call to carry out an in-depth inquiry into a matter. It refers to a one-off consultation on a specific report.



### **Who undertakes pre-decision scrutiny?**

- 5.8 Pre-decision scrutiny is about accountability for decision-making. The scrutiny of decisions and holding the Council's Executive to account is a role that is carried out by the Council's three Scrutiny Committees.
- 5.9 The selection of matters for pre-decision scrutiny should have regard to whether the matter has already featured in scrutiny work plans.

### **Impact on work plans**

- 5.10 Pre-decision scrutiny is only one of a variety of roles and possible activities that scrutiny may be involved in, and any desire to undertake pre-decision scrutiny will need to be balanced with other activities.
- 5.11 Pre-decision scrutiny does not automatically require scrutiny to carry out any in-depth work. The presumption is that a single meeting is sufficient to formulate views. Should the committee feel that more work is necessary then it will need to recommend that to Cabinet. If the committee wishes to carry out any aspect of work in relation to the proposed decision, it will need to state this in its response to the Cabinet.
- 5.12 An item for pre-decision scrutiny need not automatically pose a significant impact on the existing work programme, the committee will however have to manage its work to take into account referrals or requests for pre-decision scrutiny.

### **Impact on the Executive**

- 5.13 The committee will depend on the cooperation of the Executive in facilitating the involvement of scrutiny. Pre-decision scrutiny will have an impact on existing decision-making procedures, and the time of both councillors and officers involved in the production of Cabinet reports. Pre-decision scrutiny would be facilitated by forward planning and a degree of flexibility on decision-making timetables.

### **The process**

- 5.14 The process for pre-decision scrutiny is summarised in the attached flow-chart (Appendix 4). The process is based on a selective approach through identification of items from the City Council's Forward Plan.
- 5.15 Only one scrutiny committee may undertake pre-decision scrutiny. Identification / Selection
- 5.16 The City Council publishes its Forward Plan on the Council's website and it will be included with each scrutiny agenda. Scrutiny councillors should use this information as the source from which selections for pre-decision scrutiny are made. Where the chair of a scrutiny committee or a group leader expresses a desire to pre-scrutinise a matter it will be added to the work programme. The relevant Cabinet Member will be made aware of any requests for pre-scrutiny.
- 5.17 In some circumstances pre decision scrutiny will not be appropriate. The Chief Executive will be entitled to decline a request for pre-decision scrutiny provided one of the following criteria is met:

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- The matter is not the subject of a Cabinet decision-making report
- The matter has already been subject to extensive consideration by scrutiny
- Where pre-decision scrutiny would require that an urgent matter is delayed and that this delay would be detrimental to the interests of the Council
- Whether there is any constitutional or legal reason why pre-decision scrutiny should not take place

### **Notification**

5.18 The relevant Cabinet Member and relevant Director will be notified of those matters identified for pre-decision scrutiny at the earliest opportunity and advice sought on timing / implications.

5.19 The relevant Director will advise on the decision-making timetable.

### **Inclusion in Work Plan**

5.20 Where possible those matters that have been considered appropriate for pre-decision scrutiny will be included in the work plan.

5.21 At the same time the committee will have to consider the implication on its own time to undertake meaningful pre-decision scrutiny and will need to manage and modify its work programme accordingly.

### **Consideration**

5.22 Pre-decision scrutiny will normally be based on the report which is to be submitted to Cabinet. The relevant Cabinet Member would be expected to attend the committee to answer questions / provide clarification on the report. The committee can request relevant officers to attend to provide advice and assist the committee in their consideration.

5.23 Best practice evidence strongly emphasises the need for a constructive and non-party political approach. There would be an expectation of responsible, evidence-based scrutiny. In general, the committee would be expected to focus on:

- The reasons for the proposed decision and robustness of the process
- Whether the report outlines all the known or potential implications (including policy/budget issues) and risks
- Whether the report adequately examines all the available options
- Whether there has been adequate consultation on the proposals

5.24 Meetings will be open to the public (unless an exemption applies).

### **Decision**

5.25 The Committee will inform cabinet in writing of their considerations, this will be included on the Cabinet agenda. Otherwise, the chair of the committee will be invited to address

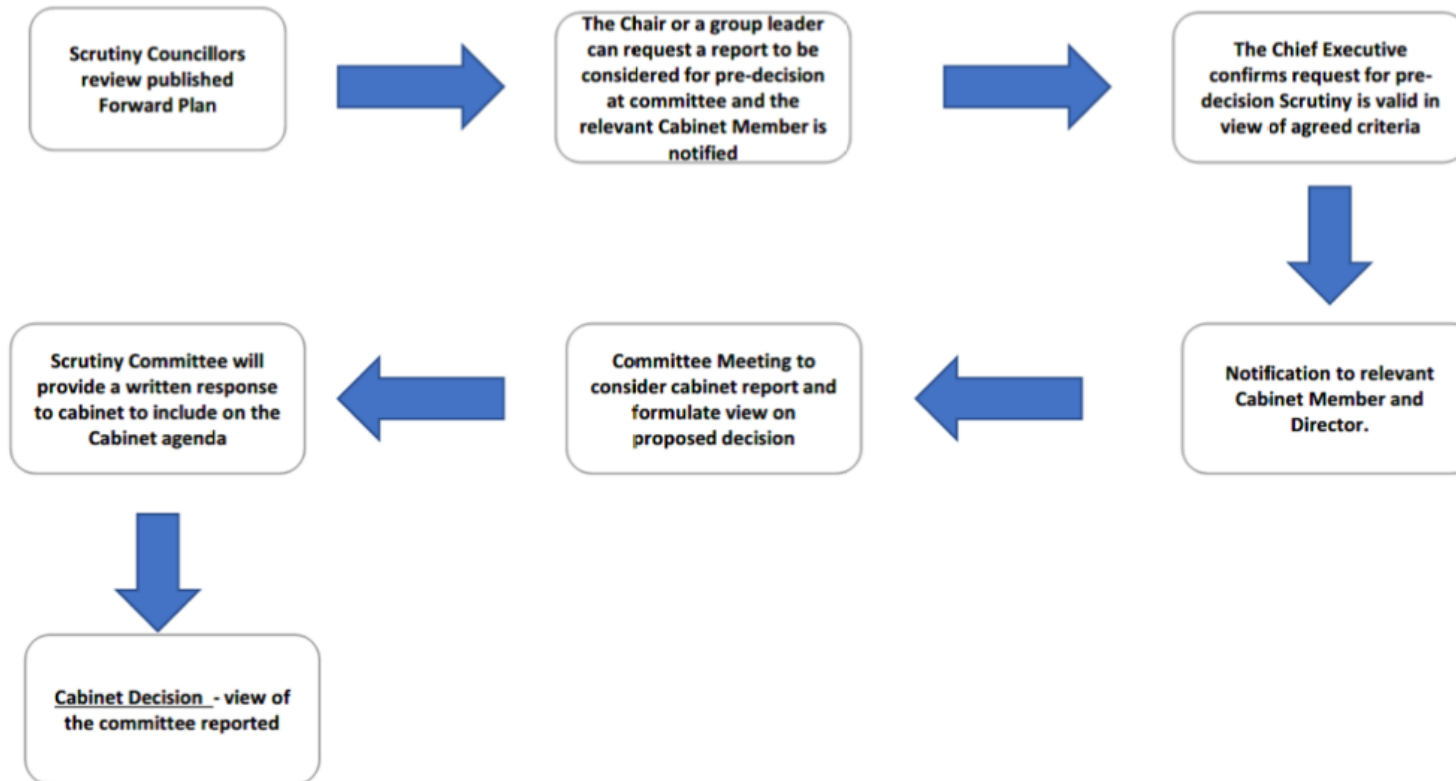
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the Cabinet during consideration of the report to outline the views of the committee prior to decision.

- 5.26 Where possible the Cabinet report should include a section on the outcome from the committee meeting and if necessary, demonstrate how the views expressed by the committee have been addressed.

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# Pre-decision scrutiny



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